

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
<i>Zhao</i>)	Group No.: 2617
)	
Serial No.: 10/789,298)	Examiner: Bhattacharya
)	
Filed: 02/27/2004)	Docket: 0108-0241/US
)	

For: METHODS AND APPARATUS FOR FACILITATING
CONCURRENT PUSH-TO-TALK OVER CELLULAR (POC)
GROUP COMMUNICATION SESSIONS

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE COMMUNICATION

In response to the Notice of Abandonment mailed on October 04th 2007 for the above-referenced patent application, the Practitioner submits this Petition in accordance with 37 CFR § 1.181 and MPEP § 711.03(c) I. A.

In the mailing of October 04th 2007, a Notice of Abandonment was received for the above-referenced patent application. In the Notice of Abandonment, the subject patent application was abandoned based on the applicant's failure to respond to the Office Action mailed on

In response, the Applicant hereby submits a *Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action* in accordance with 37 CFR § 1.181 and MPEP § 711.03(c) I. A.

This showing, required to establish non-receipt of an Office communication, includes (1) a statement from the Practitioner stating that the Office communication was not received and (2) attesting to the fact that a search of the file jacket and docket records indicates and confirms that the Office communication was not received.

The Applicant hereby submits the *Statement And Attestation of Shigeharu Furukawa*, the Practitioner associated with the subject patent application, and relevant attachments associated therewith. Based on the present submission, the Applicant respectfully requests that the holding of abandonment be withdrawn and the Office Action be redelivered, or that other suitable and appropriate measure to be taken.

Thank you. The Petition Reviewer is invited to contact the undersigned by telephone if necessary to expedite this matter.

Respectfully Submitted,

/John J. Oskorep/

Date: 24 October 2007

JOHN J. OSKOREP
Reg. No. 41,234

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Serial No.: 10/789,298)	Examiner: Bhattacharya
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Filed: 02/27/2004)	Docket: 0108-0241/US
)	

For: Methods And Apparatus For Facilitating Concurrent Push-To-Talk
Over Cellular (PoC) Group Communication Sessions

MAIL STOP PETITION
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

STATEMENT AND ATTESTATION OF SHIGEHARU FURUKAWA

I, Shigeharu Furukawa, state and attest to the following:

1. I am a patent attorney registered to practice before the United States Patent & Trademark Office (USPTO) and assigned USPTO registration number 50,481.

2. I am employed by Research In Motion Limited ("RIM"), a Canadian company having a primary place of business of 295 Phillip Street, Waterloo, Ontario, Canada N2L 2W8.

3. I work primarily from a RIM office located at 102 Decker Ct., Suite 180, Irving, Texas USA, 75062, which is the correspondence address assigned to the subject patent application at the USPTO.

4. I am the Practitioner at RIM who is primarily responsible for managing the subject patent application.

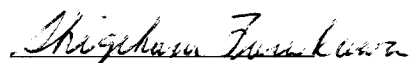
5. I hereby declare that the Office Action mailed on 01/17/2007 for the subject patent application was not received by the Practitioner and/or at the RIM office associated with the correspondence address.

6. Upon receipt of the Notice of Abandonment of 10/04/2007 for the subject patent application, our RIM office downloaded a copy of the Office Action mailed on 01/17/2007, as well as the same Office Action as returned to the USPTO as undeliverable by the United States Postal Service (USPS), from the USPTO's PAIR website. See the undelivered Office Action in Attachment #1, especially the last page thereof. This appears to indicate that the USPS did not actually successfully deliver the Office Action to the correspondence address, despite our RIM office being able to receive most if not all other correspondence from the USPTO (including the Notice of Abandonment of 10/04/2007 for the subject patent application).

7. I also hereby declare that a search of the file jacket and docket records of the subject patent application indicates and confirms that the Office Action mailed on 01/17/2007 was not received by the Practitioner and/or at the RIM office associated with the correspondence address. A copy of a Patent Record Sheet from the Practitioner's docketing software, which includes the docket record where the non-received Office Action would have been entered had it been received and docketed, is attached. See Attachment #2.

8. I am aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application and any patent issuing thereon. I further declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Respectfully Submitted,

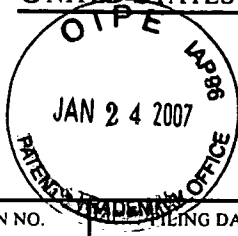
A handwritten signature in cursive script, reading "Shigeharu Furukawa".

Shigeharu Furukawa

Reg. No. 50,481



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,298	02/27/2004	Wen Zhao	0108-0241/US	7620

54120 7590 01/17/2007
RESEARCH IN MOTION, LTD
102 DECKER CT.
SUITE 180
IRVING, TX 75062

EXAMINER

BHATTACHARYA, SAM

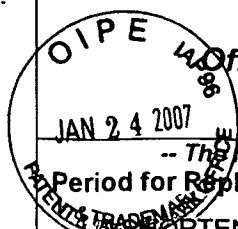
ART UNIT PAPER NUMBER

2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



Office Action Summary

Application No.	Applicant(s)	
10/789,298	ZHAO ET AL.	
Examiner	Art Unit	
Sam Bhattacharya	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>see 1449s</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 34-37 have been renumbered 33-36.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmusto (US 5,809,018) in view of Chakraborty et al. (US 2005/0176454).

Regarding claims 1, 16, 25 and 33, Lehmusto discloses a cellular server of a wireless communication network, including one or more processors 205; memory 209; computer instructions stored in memory; the one or more processors being operative in accordance with the computer instructions to facilitate cellular communication sessions between mobile stations by maintaining a first cellular communication session between a first user group; and concurrently maintaining a second cellular communication session between a second user group, the second

user group having at least one common member with the first user group. See FIG. 2 and col. 4, line 36-63.

Lehmusto fails to disclose that the group communication is a push-to-talk-over-cellular (PoC) communications. In an analogous art, Chakraborty discloses cellular telephone group calls in PoC communications. See paragraph 7, lines 1-6. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system in Lehmusto by incorporating it into a PoC system for the purpose of allowing users of trunked communications to use the cellular system.

Regarding claims 2, 17 and 26, Lehmusto discloses that the second user group has at least one member which is not included in the first user group. See col. 4, lines 24-34.

Regarding claims 3, 18 and 27, Lehmusto discloses that all members of the second user group are included in the first user group. See col. 5, lines 3-12.

Regarding claims 4, Lehmusto discloses the method being performed by a server of a communication network. See FIG. 3 and col. 5, lines 32-46.

Regarding claims 5, Lehmusto discloses the method being performed by a mobile station corresponding to the at least one common member. See col. 4, lines 24-34.

Regarding claims 6, Lehmusto discloses that the method is embodied in a computer program product including a computer storage medium and computer instructions stored in the computer storage medium. See col. 6, lines 1-23.

Regarding claims 7, 19 and 28, Lehmusto discloses that prior to concurrently maintaining the second group communication session, receiving or sending an invitation for the second group communication session; and wherein the act of concurrently maintaining the second group

communication session is in response to an invitation acceptance to the second group communication session. See col. 6, line 34-48.

Regarding claims 8, 20, 30 and 34, Lehmusto discloses receiving an end user selection for communications associated with only one of the first and the second group communication sessions at a time; and in response to the end user selection, causing data packets of only the selected group communication session to be processed for communications. See col. 5, lines 47-67.

Regarding claims 9, 21, 31 and 35, Lehmusto discloses receiving an end user selection for communications with both the first and the second group communication sessions at the same time; and in response to the end user selection, causing data packets of both the first and second group communication sessions to be processed for communications. See col. 6, lines 42-48.

Regarding claims 10 and 22, Lehmusto discloses the method being performed by a mobile station which corresponds to the at least one common member, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication session; and causing audible signals of only one of the first and the second communication sessions to be heard at the mobile station. See col. 7, lines 27-49.

Regarding claims 11 and 23, Lehmusto discloses the method being performed by a mobile station which corresponds to the at least one common member, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second

communication sessions; and causing audible signals of the first and the second communication sessions to be heard simultaneously at the mobile station. See col. 7, lines 10-20.

Regarding claims 12 and 24, Lehmusto discloses the method being performed at a server location, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication session; and sending only one of the first and the second data packets to the at least one common member. See col. 7, lines 10-26.

Regarding claims 13, Lehmusto discloses the method being performed at a server location, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication sessions; causing audible signals of the first and the second communication sessions to be combined into resulting data packets; and sending the resulting data packets to the at least one common member. See col. 7, lines 50-62.

Regarding claims 14, Lehmusto discloses receiving encrypted data packets of the second communication session; if a key for the encrypted data packets for the second communication session is known, decrypting the encrypted data packets for the second communication session; and if the decryption key of the encrypted data packets for the second communication session is unknown, refraining from decrypting the encrypted data packets for the second communication session. See col. 6, lines 49-67.

Regarding claims 15, Lehmusto discloses that visually displaying an indication which indicates which one of the first and the second group communication sessions is being processed for communications. See col. 2, lines 33-50.

Regarding claim 29, Lehmusto discloses that the one or more processors are further operative for, during the maintaining sending data packets of the first communication session to the at least one common member; and sending data packets of the second communication session to the at least one common member. See col. 8, lines 4-34.

Regarding claim 32, Lehmusto discloses that the one or more processors are further operative to receiving encrypted data packets of the second communication session. See col. 6, lines 49-67.

Regarding claim 36, Lehmusto discloses visually displaying which one of the first and the second group communication sessions is being processed for communications. See col. 2, lines 33-50.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Willey et al. (US 2005/0141464) discloses slot reservations in a PoC system.

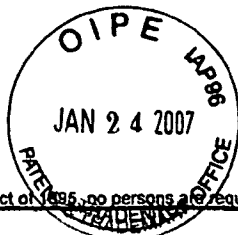
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Bhattacharya whose telephone number is (571) 272-7917. The examiner can normally be reached on Weekdays, 9-6, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sb


GEORGE ENG
SUPERVISORY PATENT EXAMINER



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Complete if Known

(Use as many sheets as necessary)

Sheet	1	of	2
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Application Number	10/789,298
Filing Date	27 February 2004
First Named Inventor	Zhao et al.
Art Unit	2661 2617
Examiner Name	Not Yet Assigned
Attorney Docket Number	0108-0241/US

[illegible][illegible]

**Examiner
Signature**

Date
Considered

1/5/07

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 608. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 801.04. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.18 if possible. ⁶Applicant is to place a check mark here if English language translation is attached.


This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Complete if Known	
		Application Number	10/789,298
		Filing Date	27 February 2004
		First Named Inventor	Zhao et al.
		Art Unit	Not Yet Assigned 2617
		Examiner Name	Not Yet Assigned Sam Bhattacharya
Sheet 2	of 2	Attorney Docket Number	0108-0241/US

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
EB		"EUROPEAN SEARCH REPORT FOR APPLICATION # 04251117.0-1249-, 09/09/2004	

Examiner Signature		Date Considered	1/5/07
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

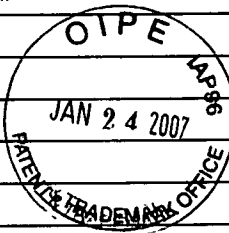
¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Notice of References Cited	Application/Control No. 10/789,298	Applicant(s)/Patent Under Reexamination ZHAO ET AL.	
	Examiner Sam Bhattacharya	Art Unit 2617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2005/0176454	08-2005	Chakraborty et al.	455/518
*	B	US-2005/0141464	06-2005	Wiley et al.	370/337
*	C	US-5,809,018	09-1998	Lehmusto, Mika	370/330
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			



FOREIGN PATENT DOCUMENTS

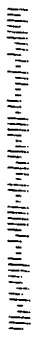
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	O					
	P					
	Q					
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	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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